No. 80-2078

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ALEXANDER L. STEVAS

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

DAMES & MOORE, a partnership,

Petitioner,

—v.—

DONALD T. REGAN, THE SECRETARY OF THE TREASURY OF THE UNITED STATES OF AMERICA, and THE UNITED STATES OF AMERICA,

Respondents,

—and—

BANK MARKAZI IRAN, et al.,

Intervenors.

ON WRIT OF CERTIORARI TO THE COURT OF APPEALS FOR THE NINTH CIRCUIT BEFORE JUDGMENT

MOTION OF 26 IRANIAN BANKS, FOR LEAVE TO FILE BRIEF *AMICI CURIAE*

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26 Iranian commercial banks* which on June 15, 1981 moved for leave to intervene in this proceeding hereby respect-

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* Bank Melli Iran, Industrial Credit Bank, Industrial and Mining Development Bank of Iran, International Bank of Iran, Agricultural Development Bank of Iran, Bank of Tehran, Agricultural Cooperative Bank of Iran, Bank Bazargani Iran, Bank Bimeh Iran, Bank Iran-

fully move for leave to file the accompanying brief amici curiae. In the event the Court ultimately grants our motion to intervene, we respectfully request that this motion be deemed moot and that the accompanying brief be considered as one filed on behalf of the Iranian banks as intervenors.

INTEREST OF THE AMICI

The 26 Iranian commercial banks were named as parties defendant in the underlying action originally brought in late 1979 in Los Angeles by petitioner Dames & Moore against them, the Atomic Energy Organization of Iran, the Government of Iran, Bank Markazi Iran (Iran's Central Bank), and one separately represented Iranian commercial bank, Bank Saderat Iran. *Dames & Moore v. Atomic Energy Organization of Iran,* No. CV 79-04918 LEW (C.D. Cal.). The action now before this Court, *Dames & Moore v. Regan,* was commenced in the same court on April 28, 1981 to challenge the validity of the Declarations signed in Algeria on January 19, 1981 (the "Algerian Declarations") and the various executive orders and regulations issued thereafter to implement those diplomatic accords. On May 28, 1981, Judge Waters entered a single ruling applicable to both of the Dames & Moore suits, as well as to parallel suits brought by another claimant.* His ruling

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shahr, Bank Dariush, Bank Kar, The Bank of Iran and the Middle East, Bank of Omran, Bank Pars, Bank Rafah Kargaran, Bank Sakhteman, Bank Sanaye Iran, Bank Sepah, Bank Shahryar, Banque Etebarate Iran, Development and Investment Bank of Iran, Distributors Cooperative Credit Bank, The Foreign Trade Bank of Iran, Iranians' Bank, and Mortgage Bank of Iran.

In compliance with Rule 28.1 of the Rules of this Court we note that Bank Mellat, Bank Tejarat, Irano British Bank, Mercantile Bank of Iran and Holland, International Bank of Iran and Japan and Iran Arab Bank may be considered affiliates of certain of the 26 banks listed above.

* *Daniel, Mann, Johnson & Mendenhall v. Regan,* No. CV 81-1100 LEW (C.D. Cal.), and *Daniel, Mann, Johnson & Mendenhall v. Iran,* No. CV 80-277 LEW (C.D. Cal.).

dismissed the suits against Secretary Regan and the United States, vacated the attachments in the underlying litigations and stayed further proceedings.

Prior to January 19, 1981, the Iranian commercial banks had moved to dismiss the underlying action on the grounds that the banks were strangers to the commercial dispute, that neither the Foreign Sovereign Immunities Act of 1976, nor any other body or principle of law permitted jurisdiction over foreign entities or attachment of their assets solely on the ground that they were "agents or instrumentalities" of the same foreign government which allegedly controlled the party of whose conduct plaintiff complained, that there was no other basis for bringing the Iranian commercial banks into the litigation, and that the Los Angeles court lacked personal jurisdiction over the bank defendants. Although these issues were briefed and argued at length, Judge Waters denied the banks' motion on January 20, 1981 without written or oral opinion.

On January 19, 1981, the United States and Iran entered into the Algerian Declarations resolving the hostage dispute. The Declarations also provided for vacation of the attachments against Iranian assets, for termination of the various Iranian litigations and for resolution—with certain exceptions—of claims against Iran through international arbitration proceedings. Awards in those proceedings are to be secured by a billion dollar fund which is to be created out of the attached Iranian assets and which is to be maintained at a level of $500 million by Iran until all awards of the Tribunal are satisfied.

The interest of the amici in this proceeding is plain. They constitute the vast majority of the defendants named in the underlying action. Their assets are subject to many of the attachments whose continuance is at issue here. Several of the Iranian commercial banks including Bank Melli Iran are, in addition, garnishees served with writs of attachment with respect to assets of other Iranian entities.

Moreover, the Iranian commercial bank defendants argued to Judge Waters in numerous briefs the validity of the Declarations and of the implementing Executive Orders and Regulations, both in the underlying action and in the related suit Dames & Moore brought against Secretary Regan and the United States. And they have briefed and argued the precise issues now before this Court in the Courts of Appeals for the District of Columbia and Second Circuits, as well as before a number of District Courts.

CONCLUSION

We respectfully request that in the event our motion for leave to intervene is not granted that the 26 Iranian commercial banks be permitted to file their brief as amici curiae.

Dated: June 19, 1981

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